

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JUNWU GONG,

Plaintiff,

-v-

STUART M. SARNOFF, O'MELVENY & MYERS
LLP, CARL M. STANTON, CITY OF NEW YORK,
OFFICER JOHN DOE 1, OFFICER JOHN DOE 2,
OFFICER JOHN DOE 3, OFFICER LAUREN A.
DUFFY,Defendants.
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23-cv-343 (LJL)

ORDER

LEWIS J. LIMAN, United States District Judge:

Defendants O'Melveny & Myers LLP and Stuart Sarnoff ("Defendants") served copies of its Rule 11 motion and supporting papers on counsel for plaintiff Junwu Gon ("Plaintiff") on March 29, 2023. Dkt. No. 39. On April 14, 2023, within the 21-day safe harbor period under Federal Rule of Civil Procedure 11(c)(2), the Court held an initial pretrial conference. Minute Entry (4/14/2023). At the initial pretrial conference, Plaintiff requested, and the Court granted, permission to file an amended complaint on or before April 21, 2023. Tr. 16.

There is authority in this Circuit that suggests that if a party seeks leave to file an amended complaint within the safe-harbor period, the offending pleading is considered "withdrawn or appropriately corrected" and a court is precluded from ruling on the Rule 11 motion. *See Smith v. Manhattan Club Timeshare Ass'n, Inc.*, 944 F. Supp. 2d 244, 259 (S.D.N.Y. 2013); *Rates Tech. Inc. v. Mediatrix Telecom, Inc.*, 2007 WL 1987787, at *3 (E.D.N.Y. June 29, 2007); *Team Obsolete Ltd. v. A.H.R.M.A. Ltd.*, 216 F.R.D. 29, 43 (E.D.N.Y. 2003); *cf. Lawrence v. Richman Grp. of CT LLC*, 620 F.3d 153, 157 (2d Cir. 2010). The parties are directed to file letter briefs of no more than three single-spaced pages on or before July 13, 2023, addressed to the question whether Defendants' Rule 11 motion is properly before this Court or whether the Rule 11 motion had to be re-served on Plaintiff's counsel upon the filing of Plaintiff's amended complaint.

SO ORDERED.

Dated: July 7, 2023
New York, New York

LEWIS J. LIMAN
United States District Judge